

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2015-013746

10/07/2016

HONORABLE LORI HORN BUSTAMANTE

CLERK OF THE COURT
T. Nosker
Deputy

JOSEPH MOMOT, et al.

KRYSTLE DELGADO

v.

SILKWORTH MANOR L L C, et al.

ADAM E HAUF

MINUTE ENTRY

The court has reviewed and considered the following pleadings:

- Motion to Strike
- Response to Motion to Strike All Pleadings and Motion for Leave to Make Late Disclosure and Accept the Disclosure Statements, Affidavits, and Information in the MSJ Pleadings and Motion to Continue All Deadlines and Motion for Leave to File Cross Motion for Summary Judgment
- Response to Defendants Motion for Leave to Make Late Disclosure and Accept Disclosure Statements, Affidavits, and Information in the MSJ Pleadings and Response to Motion to Continue All Deadlines and Response to Motion for Leave to File Cross Motion for Summary Judgment¹
- Plaintiff's Reply in Support of Motion to Strike for Untimely Disclosure

¹ Within the Response there appears to be an attempt to reassert Plaintiff's previous Second Motion to Compel that was struck by the court. The court has already ruled upon the Second Motion to Compel and will not address the Motion in this minute entry. Also within the Response appears to be a request to order payment of the recently imposed sanctions. Plaintiffs are directed to file whatever motion they deem appropriate.

SUPERIOR COURT OF ARIZONA
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10/07/2016

- Defendants' Reply to Plaintiff's Response to Defendants' Motion filed 9/19/16 for Leave to Make Late Disclosure and Accept Disclosure Statements, Affidavits, and Information in the MSJ Pleadings and Reopen Discovery for Plaintiff and Continue Trial if Plaintiff and Defendants' Reply to Plaintiff's Response to Defendants' Motion for Leave to File Cross Motion for Summary Judgment
- Defendants' Expedited Motion for Expedited Ruling on the Parties Pleadings
- Defendants' Motion to Exceed Page Limitation on Reply Brief by Three Pages²

The purpose of the rules is “to provide parties ‘a reasonable opportunity to prepare for trial or settlement – nothing more, nothing less.’” *Zimmerman v. Shakman*, 204 Ariz. 231, 235, 62 P.3d 976, 980 (2003) (quoting *Bryan v. Riddel*, 178 Ariz. 472, 477, 875 P.2d 131, 136 (1994)). The rules “should be interpreted to maximize the likelihood of a decision on the merits.” *Allstate Ins. Co. v. O’Toole*, 182 Ariz. 284, 287, 896 P.2d 254, 257 (1995). “Delay, standing alone, does not necessarily establish prejudice. Every late disclosure will involve some delay, but the relevant question must be whether it is harmful to the opposing party or to the justice system.” *Id.* at 288, 896 P.2d at 258.

It appears the defense has not been overly diligent in complying with the court imposed deadlines; however, the rules must be interpreted to “maximize the likelihood of a decision on the merits.” The trial date was only recently scheduled, after the disclosure and motion for summary judgment that are the subjects of the various motions, and the trial date is still over three months away. Although the late disclosures may delay the case, the court finds the recent disclosures are not harmful to the Plaintiffs or the justice system. The court will continue the trial in order to give Plaintiff additional time to prepare if *Plaintiffs* believe it is necessary.

IT IS ORDERED denying Plaintiff's Motion to Strike.

IT IS FURTHER ORDERED denying Plaintiffs' request for attorney fees and sanctions.

IT IS FURTHER ORDERED granting Motion for Leave to Make Late Disclosure and Accept the Disclosure Statements, Affidavits, and Information in the MSJ Pleadings.

IT IS FURTHER ORDERED granting Motion to Continue All Deadlines.

² The court recognizes the last two defense Motions were recently filed and time has not expired to Respond but they are not substantive motions that would prejudice the Plaintiffs in any way and the court wishes to provide rulings as quickly as possible so that the case may proceed.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2015-013746

10/07/2016

IT IS FURTHER ORDERED extending time for Plaintiff to depose any witnesses or provide additional information as needed in light of the late disclosures. The parties are directed to confer and file a revised Proposed Scheduling Order on or before October 21, 2016.

IT IS FURTHER ORDERED granting Motion for Leave to File Cross Motion for Summary Judgment.

IT IS FURTHER ORDERED granting Defendants' Expedited Motion for Expedited Ruling on the Parties Pleadings.

IT IS FURTHER ORDERED granting Defendants' Motion to Exceed Page Limitation on Reply Brief by Three Pages.

IT IS FURTHER ORDERED affirming oral argument on the Motions for Summary Judgment currently scheduled on December 2, 2016 at 3:00 p.m. The court does have limited availability sooner if the parties wish to move up the time for oral argument. If counsel wish to move up oral argument on the Motions for Summary Judgment, counsel are directed to contact this court's judicial assistant, Brian Stone, at stoneb@superiorcourt.maricopa.gov.

In addition, if *Plaintiffs* would like a continuance of the trial date, the court has availability in June and July or we can also double book the trial sooner in hopes of another judge being available if the trial scheduled first in time goes. Counsel may also check availability of additional trial dates with this division's judicial assistant, Brian Stone.